

# Marxism and Islamism: Intellectual conformity in Aron's time and our own

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## Abstract

We celebrate great writers not only by reconstructing their ideas but also by thinking in their spirit. Many aspects of Raymond Aron's legacy could, today, be exploited by writers of an Aronian turn of mind. They might draw on his philosophy of history; his defense of the specificity of politics; his acute awareness of the burdens of responsibility imposed on great powers. In this article, I flag a different topic: Aron's concern with the impact of regimes and local cultures on political discussion. Of special interest to him were state-sponsored ideology and self-induced groupthink (the 'opium of the intellectuals'). After briefly describing Aron's views of both of these phenomena within the context of official and unofficial Marxism, I examine two modalities of communicative inhibition that have emerged since his death. Both turn on the emergence of Islamism as a major modern political ideology; both entail impediments to free speech: the vilification of political disagreement as 'phobic' and, relatedly, the political use of law ('lawfare') to halt debate on matters sensitive to Islamists.

## Keywords

Aron, Bolshevism, conundrum of specificity, fear, Islamophobia, lawfare

This article examines a threat to 'words written and spoken, in politics' (Aron 1978a: xx) – to the frank exchange of political views – that has emerged since Aron's death in 1983: the growth of Islamism in the West. The threat has two related components. The first is the reduction of political disagreement to a phobia. So, for instance, people who criticize aspects of Islam are routinely chastised, and not only by Muslim advocacy organizations, as Islamophobic. Such accusations are damaging because democratic politics requires the presumption that people speak as equals in a common public space; that principled disagreement is a legitimate part of a pluralist society; and that conflict and rivalry, within the bounds of non-violence, are normal. Imputing a phobia to someone,

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conversely, presumes a vertical mode of judgment in which disagreement is considered pathological. Where the imputation sticks, intellectual conformity and dissimulation typically follow (Kuran, 1995). The second component of communicative inhibition is 'lawfare': for my purposes, it can be defined as actions that pursue jihad by stealth through tort law, human rights commissions, and the United Nations. The purpose of stealth jihad – one that formally abjures terrorism – is to curb criticism of practices associated with Islam or to remove impediments to the dispersion of Sharia in Western countries by legal and procedural means.

Before addressing these themes in detail, I first examine Raymond Aron's analysis of two modalities of orthodoxy associated with Marxism: state-sponsored ideology and groupthink, 'the opium of the intellectuals.' The point of my analysis is to show some contrasts and continuities between Aron's time and our own.

### **Bolshevik ideology in the Soviet Union and Western groupthink**

Over a long career, Aron examined the impetus to orthodoxy, whether coerced or self-induced, characteristic of the modern intelligentsia. That orthodoxy took different forms depending on the conditions under which it appeared; and it was rarely as simple – or as inflexible – as critics claimed. Consider the official Bolshevik ideology of the Soviet Union. To be sure, the Bolsheviks were cynics; for that reason, Bolshevik ideology can be viewed as an instrument to consolidate, as well as justify, the power of an oligarchy. But it was not merely that. The fact that, unlike National Socialists, Bolsheviks professed fidelity to democratic principles even while suborning them is sociologically telling. 'What do these constitutional fictions mean?' asked Aron. 'Why elections of 99 ... per cent? Why draw up in so much detail constitutions which do not correspond to the actual functioning of power?' (Aron, 1969 [1965]: 166). The answer is that the Bolshevik party was ensnared in its own doctrine.

It follows that to explain the Soviet communist party satisfactorily requires us to understand how it imagined itself and others. The obsessive communist attack on monopoly capitalism, for instance, was by no means entirely contrived; that denunciation issued from the party's own oligarchic character. For those who lived only under a Soviet-type regime, inured to its ways, it was almost impossible to believe that constitutional-pluralist governments could *in fact* operate differently – without 'the omnipotence of the few' (Aron, 1969 [1965]: 178). In a similar way, 'the rivalry between the two kinds of regime [was] also a rivalry between two systems of institutional interpretation of the same ideological formula' – popular sovereignty. In constitutional-pluralist states the core symbol of popular sovereignty is the competitive election; in the Soviet case, it is uniformity of opinion. Popular sovereignty, according to Bolshevik thinking, is most pristine when opposition is absent, when elections are unanimous, and when people acclaim the results rather than acrimoniously dispute them. The Soviet election was thus a declaration of a 'pact between the real or mystical will of the masses and that of those who govern' (Aron, 1969 [1965]: 179). Moreover, Bolshevik doctrine – the heart of its ideology – managed to maintain a remarkably elastic attitude to the relationship between principle and practice. Aron was struck less by the delusional, logical relentlessness of Bolshevik

ideology than by an opportunism framed by genuine conviction. The doctrine mandates determinism, inexorable processes, and a struggle between good and evil. But this did not stop the regime falling into the hands of a clique which pursued a mercurial and self-interested set of agendas. To that extent, the leadership was not the collective vector of impersonal forces but an active, discerning agent in its own right making decisions on a motley group of issues – painting, music, the natural sciences, industrial production – that seemed irrelevant or tangential to the Marxist faith it professed. And that, in turn, suggests that Bolshevik ideology, far from being crustaceous, was itself open to transformation. Aron commented on this protean quality as follows:

The general principles of the historical evolution from capitalism to socialism or the role of the party can be upheld while the significance of past events can be completely reinterpreted. But one of the consequences of the form taken by the doctrine is that, in place of determinism or objective forces, there creeps into the view of history the action of individuals. The sacrosanct history of Soviet doctrine is becoming less and less that of the development of the forces of production and more and more that of the history of the party itself. The sacrosanct history of events which led to the revolution is that of the Bolshevik party, of conflicts within the party, as well as that of the satellite parties.

(1969 [1965]: 183)

If Soviet state orthodoxy was more open and agile than its critics understood, Western Marxism was more closed than its advocates believed. The problem, as Aron saw it, was that Marxism in his day had become a ‘secular religion.’ Daniel Gordon, in his article for this Special Issue of *JCS*, argues that Aron’s portrait of religion was often superficial and muddled, especially where he sought to use it as a way to criticize Marxism. The confusion is especially evident when Aron glides between different conceptions of the homology between communism and religion. On occasion, for instance, he appears to derive communism genetically from Judaeo-Christianity; at other times, he stresses its analogical correspondence to or elective affinity with Judaeo-Christianity; at still other times he writes of secular religion as a substitute, a sublimation, a recapitulation and a caricature of Judaeo-Christianity or, alternatively, a pseudo-religion.<sup>1</sup>

Despite this ambiguity, Aron’s main point was that Marxism – in both its Soviet and Western versions – had taken on a dogmatic, and often fanatical, character that distorted its judgment on political affairs. Its ‘myths’ of the Left, of Revolution, of the Proletariat; its ‘idolatry of history’; its idea of the infallibility of the Party; its inquisitions and confessions – all of these inhibited its capacity to deal honestly with such issues as the Soviet gulag and the value of Western pluralism. Reinforcing this mentality was a discourse that systematically distorted language by inverting its meaning or by definitional fiat. So, for instance, any military victory of the Soviet Union was ultimately a victory for peace. Similarly, the

... worker in the Ford factories is exploited, if exploitation is *by definition*, linked to the private ownership of the means of production and of the profits therefrom. The worker in the Putilov factories is ‘emancipated’ if, by working for the collectivity, he ceases, *by definition*, to be exploited.

(Aron, 1985 [1955]: 110, italics in the original)

It follows that ‘those who want to consider the plain facts and concrete realities – the organization of power, the relationship of employers and employed – are on the path of heresy’ (Aron, 1985 [1955]: 111). Repeatedly, Aron warned of the illusions created by faith in the Party, faith in the Proletariat, faith in History. That kind of faith denied the legitimacy of plural views of the good and, ultimately, politics itself as a sphere constitutive of rivalry and dissent.

Since Aron’s death in 1983, Marxist faith has died and another has come to replace it as a threat to political pluralism. Embedded in a real religion rather than a ‘secular’ one, this faith has the ambition to re-confessionalize the public space in countries where such space exists. Those of a similar religion who resist such ambition are heretics; those of a different religion, or none, who oppose it are obstacles to be overcome. Obfuscatory language is, once more, a key means to prevail over one’s adversaries by denying them the dignity of principled disagreement.

## Islamophobia

Scattered through Aron’s writings are various references to Islam and what, today, we would call Islamism: a supremacist political ideology that through violence or non-violence seeks to promote the spread of Sharia globally. For instance, he observed that communism ‘is likened to a religion of salvation and compared with Islam, whose armies laid the infidel low and whose ideas conquered men’s souls’ (Aron, 2002c [1951]: 225).<sup>2</sup> Of communist ideology, he added that ‘since the spread of Islam there has probably never been such a rapid and impressive half-spiritual, half-political conquest’ (Aron, 1969 [1965]: 207). And in his *Memoirs*, in a passage that brackets together the ‘devotees of Khomeini or Lenin,’ Aron remarked that ‘Iranian Shiites and Marxist-Leninists belong to the same family, since the Shiite clergy wants to rule over civil society as the Soviet Communist party does’ (1990 [1983]: 472). Yet because Aron died only four years after the Iranian Revolution, he had little chance to experience the huge consequences of that transformational event for the Muslim and non-Muslim world. My concern is not with the rise and dispersion of Islamist terrorism, a mode of intimidation that is obvious. It is with the emergence of ways of talking – or rather not talking – about Islam that provides inhibitions Aron never anticipated. The first inhibition is found in the widespread tendency to accuse critics of Islam and Islamism of ‘Islamophobia’; the second is the use of legal and para-legal means to stifle opinion. I begin by unpacking the meaning of ‘Islamophobia’ and examining its political implications. Before doing that, let me offer the following qualification.

Aron urged writers on politics to retain a sense of historical perspective and to avoid exaggeration. So it is appropriate to say, if it is not already obvious by anticipation, that the problems that I discuss in this article are of a different scale than those addressed by Aron’s critique of Marxism; they are also of a different type. Most Western intellectuals today have little truck with Islamism, know next to nothing about Islam, and are generally post-religious. Few Islamist political parties exist in Western societies, and those that do, like the Islamic Party of Britain, have virtually no electoral significance. Though Islamism is a global movement indifferent to nations and nationalism, there is no Islamist International, unless one wishes to count the Organization of the Islamic Conference as

that. Equally, there is no one Muslim state that is pre-eminent in a way that the Soviet Union was in its day; the schism between Shia and Sunni means that the Islamic Republic of Iran has, at best, dubious legitimacy, and often none at all, among Sunni states and populations. Moreover, when Aron discussed ideological mentalities in such books as *The Opium of the Intellectuals* (1985 [1955]) he was mostly concerned about the orthodoxy of adherents of the faith: dyed-in-the-wool Marxists and fellow travelers, *communist*s even more than Communists. In contrast, the conformity that I examine below concerns, mostly, those subject to the faith: non-Muslims. The menace that Islamism poses in the West is not that Western intellectuals emulate it or are likely to do so. It is more that, with some exceptions to which I return, they are reluctant to challenge it. It is timidity more than imitation that typifies the response of Western intellectuals to Islamism. Symptomatic of that is a reluctance to cause offense that would have been laughable in Marxism's heyday, when lampoon, ridicule, and accusation were the stock in trade of political disputants. These divergences are telling. But they do not tell the whole story. Some affinities are evident between Marxism and Islamism, not least in regard to their treatment of dissenting views, a point to which I return presently.

A phobia is an unwarranted, disproportionate, and hence irrational fear or anxiety. Most people are not fearful of open vistas. Sufferers from agoraphobia are. Most people can tolerate confined spaces. Claustrophobics cannot endure them without a mounting sense of panic. By extension, Islamophobia is ostensibly an unfounded and unreasonable dread of Muslims based on a misunderstanding of Islam or hatred of it; indeed, hatred or contempt may be deemed the cause of the misunderstanding. With the exception of the term 'antisemitism' (sometimes rendered anti-Semitism), the 'phobia' suffix (or affix) possesses a far stronger condemnatory force than the 'anti' prefix. This is because the imputation of a phobia extrapolates a clinical condition, typically studied by abnormal psychology, to the sphere of social-political relations; it thereby medicalizes the latter. Many people happily describe themselves as anti-fascists or anti-globalists. Being gleefully anti-religion is the stuff of best-sellers. Anti-Americanism has been, for many decades, *de rigueur* among French intellectuals. And even antisemitism as a modern political movement (as distinct from the long history of Jew hatred that preceded it) began life as a self-acknowledged credo when the German political publicist Wilhelm Marr founded the 'League of Antisemites' in 1879. For a long while afterwards, open antisemitism was respectable in many quarters; it still is throughout the Muslim world.

'Islamophobia,' in contrast, is an unequivocal term of abuse, and for a plain reason: to admit to a social phobia is to acknowledge not simply a viewpoint, a political stance, or even a straightforward prejudice, but an illness. It is to recognize an impairment of the faculties that produces, or is produced by, vilification and bigotry. Hence a social phobia – and this includes xenophobia and homophobia – is always something ascribed to an agent rather than affirmed and conceded by one.

For a working definition of Islamophobia – the term began to be popularized in the Anglophone vernacular during the late 1990s – consider an authoritative statement by the Council on American–Islamic Relations (CAIR) (2007). This statement abbreviates a 1997 report published by the Runnymede Trust on British Muslims and Islamophobia,<sup>3</sup> which is itself endorsed, with minor modifications, by the Organization of the Islamic

Conference (OIC) and by the European Monitoring Center on Racism and Xenophobia. On CAIR's rendering, Islamophobia amounts to an 'unfounded fear of and hostility ... that leads to discrimination against Muslims, exclusion of Muslims from mainstream political or social process [*sic*], stereotyping, the presumption of guilt by association, and finally hate crimes.' More specifically, Islamophobia is evident wherever:

1. Islam is viewed as a monolithic bloc, incapable of adapting to new realities;
2. Islam is viewed as a religion that does not share common values with other major faiths;
3. Islam is viewed as inferior to the West, and understood to be archaic, barbaric, and irrational (to which IslamophobiaWatch adds 'primitive and sexist');
4. Islam is viewed as a religion of violence that supports terrorism; and
5. Islam is viewed as a violent political ideology.

Other elements of Islamophobia, catalogued by IslamophobiaWatch, and excerpted from the Runnymede report mentioned above, include:

6. dismissive rejection of 'criticisms made of the West by Islam';
7. discriminatory practices towards Muslims and exclusion of Muslims from mainstream society based on hostility towards Islam; and
8. common-sense acceptance that anti-Muslim hostility is 'natural or normal.'<sup>4</sup>

To this list, the First Observatory Report on Islamophobia of the Organization of the Islamic Conference (2008; henceforth OIC Report), adds some putative causes of Islamophobia including:

9. 'religion-based resentment,' itself based on civilizational hostility toward the expansion of Islam since the days of the Founder; and
10. racism.

Islamophobia, then, is a social pathology that results in the discrimination, harassment, stigmatization, and injury or death of Muslims. A clear-cut example of hatefulness defined as Islamophobia, provided by the OIC Report, was a sniper attack on an Islamic center in the Swiss city of Lausanne on November 13, 2007. Similarly, a person who urinates outside a mosque deliberately to cause offense, or who beats up Muslims because they are not Christians or Hindus, is clearly displaying attitudes and practices that are aggressive and indecent; to that extent such attitudes and practices may be deemed Islamophobic if one wishes to use that expression. Considered as a mode of domination, 'Islamophobia' justifies Muslim advocacy to protect co-religionists against injury or death and to sensitize non-Islamic, particularly Western, publics to injustices perpetrated against Muslims and calumnies against Islam.

Much of the above will be considered uncontroversial by readers of this journal, though they might wonder why the terms 'prejudice' and 'discrimination' are not sufficient to describe hostility to Muslims. But now consider something else: whether the term 'Islamophobia' is itself an instrument of domination.<sup>5</sup> Consider two problems associated

with its use and its imputation. The first is that it routinely muddies the distinction between a factual statement about Islam and a putatively Islamophobic one. For instance, is it Islamophobic to say that Islam as a religion is *today* far more intolerant than Christianity as evidenced by apostasy laws prohibiting, on pain of imprisonment or death, conversion from Islam to another religion? Is it Islamophobic to say that al-Qaeda capitalizes on one legitimate meaning of jihad in the Koran and Hadith – to defeat the infidel by force of arms and to spread Sharia throughout the world?<sup>6</sup> Is it Islamophobic to say that the fatwa against Salman Rushdie, prompted by his novel *The Satanic Verses*, was an incitement to murder justified under authentic, rather than fringe, Muslim auspices? (The OIC Report insists that a ‘correct projection’ would view Islam generically ‘as a religion of moderation, peace and tolerance.’) Is it Islamophobic to say that the rapid expansion of Islam following its foundation in the seventh century was a mode of aggressive conquest? (The OIC Report, to the contrary, likens Islam’s early dispersion to the way that ‘sunshine spreads in moments.’) And is it Islamophobic to say that suicide bombings, considered among Islamists as ‘martyrdom operations,’ draw inspiration from Muslim religious texts, rituals, and traditions?

Even if these statements are claimed to be contentious rather than accurate, is it Islamophobic to discuss them in good faith? Is it the statement that is Islamophobic, the ‘misconception and incorrect interpretation’ (OIC Report) informing the statement, or the intention behind the misconception? CAIR notes that a ‘critical study of Islam or Muslims is not [ipso facto] Islamophobic,’ but furnishes no examples of what such an acceptable critical study would look like. It is thus explicable that, to its critics, *Islamophobia* looks very much like a policing action: an exercise in definitional power that stymies honest debate about Islam under the cover of multicultural respectability. This in turn allows the Islamist agenda to proceed with minimal resistance.<sup>7</sup>

Evidence for this agenda, critics charge, includes the decision of the UN Human Rights Council in June 2008, under pressure from OIC members Egypt, Pakistan, and Iran, to forbid henceforth from Council meetings any critical discussion of ‘religious matters’ so as to avoid offense. The ban followed, and was an indignant response to, NGO criticisms in the UN Human Rights Council of practices sanctioned in some Islamic states and communities, such as stoning, child marriage, and female genital mutilation. The Human Rights Council’s prohibition synchronizes with the OIC’s *Cairo Declaration on Human Rights in Islam* (1990), its alternative to the United Nations Declaration of Human Rights (1948). The Cairo Declaration enables what Ann Elizabeth Mayer (1995) felicitously calls ‘claw-back’: the qualification or outright negation of universal rights if judged to be inconsistent with Sharia.<sup>8</sup>

A second problem that the charge of Islamophobia conceals is the distinction between situations in which a fear of Muslims is psychologically, morally and politically justified – when, that is, it is a sensible, warranted alarm – and when it is baseless. To fear Muslims simply because they are different by, for instance, refraining from eating pork or refusing to drink alcohol is irrational; such practices cannot, when practiced solely by Muslims and entailing no pressure on others, hurt those who choose to live by a different code.<sup>9</sup> (These postures become more menacing when public school cafeterias feel compelled to delete pork from the menu so as to respect Muslim sensibilities, or when Muslim taxi drivers refuse to drive passengers carrying alcoholic beverages or accompanied by dogs.)

But a lapsed Muslim who wishes to convert to Christianity in an Islamic country such as Afghanistan, Sudan, or Egypt is not being irrational if she fears being branded an apostate and punished. Nor are Baha'is in Iran irrational if they fear being discovered by the Shiite authorities and, in consequence, imprisoned or killed by them. (Baha'is do not fear Iranian Christians or Jews. Nor do Muslim women fear being stoned for adultery if they live in, and as long as they live in, Manhattan under the protection of American law.<sup>10</sup>) And if natives of India fear Lashkar-e-Taiba and Israelis fear Hamas, this is all for good reason: the historical experience of terror perpetrated by agents who cry 'God is Greater' as they kill, and who see themselves as advancing the Muslim cause. CAIR cites a Pew Forum on Religion and Public Life poll of 2004 which reports that 'a plurality of Americans (46 per cent) believes Islam is more likely than other religions to encourage violence among its believers.' At the present time, that conviction is factually correct.

The use of a term that suggests a clinical condition (a phobia) is, in many respects, a far cry from the language that Marxism hurled at its adversaries and which Aron catalogued in *The Opium of the Intellectuals*. Those who held liberal or conservative views were typically seen by Marxists as ignorant of dialectics or dupes of capitalism; a person's mentality was a consequence of their structural position in the capitalist mode of production. Under a Gramscian impress, Marxists explained workers hostile or indifferent to socialism as victims of cultural hegemony, the mobilization of consent via control of education and the mass media. Marxist criticism took the form of sarcasm and debunking. Capitalists were not Proletarianophobic but rather ignorant, self-interested, venal, or, less moralistically, vectors of forces they could not control. The contrast between Marxist and Islamist criticism thus seems clear. Yet the distinction is murkier than it appears. We only have to recall that Soviet-type societies employed psychiatry to detain and control political dissent, a mode of punishment – or 'treatment' – that anticipates the conflation of dissent and irrationality. Take the little-known Chinese case. Strongly influenced by Soviet doctrine, psychiatrists in the People's Republic of China initially took the view that many forms of political criticism were attributable to mental impairment. 'Political lunacy' – an ailment attributed during the 1950s and 1960s to 'sluggish schizophrenia' or 'paranoid psychosis' – was attributed to such practices as sending letters of complaint to party officials, writing or shouting reactionary slogans, and a zealous use of petitioning and litigating. A radical shift of emphasis occurred, fittingly, during the Cultural Revolution (1966–1976) when political psychiatry reached its moral nadir: an official survey of the proportion of 'political cases' appraised in 1970–1971 by forensic psychiatrists at the Shanghai Municipal Health Centre put the figure at 72.9 percent of the total. Mental illness was now understood to be a function of politics itself, or rather of ideological perversity. The treatment seemed obvious. By correcting a person's 'bourgeois ideological defects,' and by eliminating the anti-social stubbornness that lay at its root, psychiatrists could simultaneously cure the misguided and strengthen Maoist orthodoxy. As an editorial of the *Chinese Journal of Neurology and Psychiatry* put it, in April 1966, 'Psychotherapy [is] a kind of ideological re-education, the essence of which is to instill in the patients a revolutionary worldview and outlook on life' (Munro, 2002: 45).

Here, then, we have a parallel between one variant of Marxism in Aron's epoch and one variant of Islamism today: the identification of dissent with illness, the latter understood either as mental impairment or as phobia. Such a move, piling pathology on



immorality, entails extreme anathematization (see Turner, 1999: 143). Nor, we should add, is liberalism immune to this kind of rhetorical move: its strongly rationalist current, so clearly manifest in the work of Jürgen Habermas and his American enthusiasts, routinely treats non-liberal views, or even pluralist views which avoid rationalism, as illegitimate, backward, and beyond the pale. Worse, by effectively reducing politics to law, morality, and communicative discourse, such rationalism divides people into two camps: those who pursue enlightenment and those who, by definition, must disdain it. If that is the face of contemporary liberalism, Aron is not a liberal. Bereft of a unifying, cosmological vision of the Good, modern constitutional politics is adversarial by nature; it is a struggle among contrasting objectives, identities, values, and ideal-interests, albeit within a framework that accommodates, often with difficulty, such conflict (Aron, 1969 [1965]: 14–25). Rationalist models – either an Aristotelian ‘finalist’ conception of the Good or a Kantian version based on ‘deliberative democracy’ – are unpolitical for a simple reason. Modern people do not agree on the authentic ends of politics and, short of violence and propaganda, will never agree. Nor do they concur about which values are the most important to defend. Accordingly, politics, understood through the prism of consensual rationality and its antinomies (mental disease, phobia, irrationality, immorality), appears to contradict the nature of modern life.

Or does it? Consider a contrasting Aronian motif. The appeal of Marxism is inexplicable, he argued, unless one grasps the deeper cultural taproots on which it fed (Aron, 1985 [1955]: 94ff.). Marxism traded on ideas older than Marxism – especially those of Progress, Reason, and People – that enjoyed wide currency among non-Marxists. Islamism does something similar: it draws on the modern West’s therapeutic culture together with its ubiquitous language of dysfunction. Today every problem invites a psychological solution, while every discordant or indifferent attitude can be attributed to one or more of a suite of phobias: homophobia, xenophobia, ecophobia, xenophobia, and, literally, over a hundred others. Islamism capitalizes on this tendency.

## Lawfare

If Islamophobia is now a cliché, ‘lawfare’ – though of greater longevity – has only recently entered the political lexicon.<sup>11</sup> In the context that concerns us here, it describes, first, the use in a pluralist society of legal instruments to curtail freedom of expression and induce self-censorship from those who fear legal action; and, second, the legal response to this attack. Even where the action of plaintiffs fails or is suddenly terminated – which is often the case – the objective appears to be to cause anxiety for, and pecuniary loss to, those targeted.

Marxists believed in class struggle; they were not litigious. Islamists believe in religious struggle and are. The lawfare that Islamism prosecutes, unknown in Aron’s day, takes various forms. One derives from what has come to be called ‘libel tourism’ and ‘forum shopping’: the conjoint practices of suing individuals and organizations in jurisdictions which lack the equivalent of US First Amendment protections and/or which possess libel laws that overwhelmingly favor the plaintiff. Some of the most dramatic examples of libel tourism have occurred in Britain. In the UK, the onus of proving the truth of a putatively defamatory statement rests with the defendant (that is, falsity of the

statement is ‘presumed at law’), the direct opposite of the US position, in which the plaintiff assumes the burden of demonstrating that an alleged defamatory statement is in fact one. Moreover, whereas in the US the plaintiff who is suing a public figure must prove actual malice, in the UK no such proof is required. Equally, UK law allows plaintiffs who do not even reside in the UK to bring a suit to court. Indeed, ‘in many cases, not only are none of the individuals (author, litigant, or publisher) associated with the case living in the venue of jurisdiction, but the books aren’t even published there.’<sup>12</sup> Notorious in his use of libel tourism and forum shopping is the millionaire Khalid bin Mahfouz, who lives in Saudi Arabia. Mahfouz has, of this writing, threatened to sue individuals and publishers on more than thirty occasions. Fearing punitive damages, in a libel-friendly system, most of those targeted have buckled. After Mahfouz threatened Cambridge University Press (CUP) with a libel suit for publishing Robert Collins and J. Millard Burr’s *Alms for Jihad*, in which Mahfouz was cited as a financial supporter of terrorist groups, CUP caved. Not only did it offer a public apology. It ‘pulped the unsold copies’ and demanded ‘that libraries all over the world remove the work from their shelves’ (Goldstein, 2008). Mahfouz also pursued in a British court the American author Rachel Ehrenfeld for her book *Funding Evil* (2003). Why was a British court empowered to adjudicate a case in which neither the defendant nor the plaintiff was a British resident, and the book was published by an American publisher (Bonus Books)? Because twenty-three copies were purchased in the UK through Amazon.com. Ehrenfeld proved, however, more pugnacious than CUP. She declined to appear in court, lost on default, and was instructed to pay a fine, issue a public apology, and destroy copies of her book.<sup>13</sup> She refused on all counts.

Another mode of lawfare is the use of various domestic human rights commissions, or the invoking of blasphemy laws, to discipline those deemed to have uttered Islamophobic statements. Canada was recently witness to just such a case when *America Alone* (2008) author Marc Steyn and Maclean’s magazine (which had published some of Steyn’s writings) were subject to complaints by the Canadian Islamic Congress lodged with the Ontario Human Rights Commission and, subsequently, the Canadian Human Rights Commission. Invoking section 13 of the Canada Human Rights Act that prohibits material ‘likely to expose persons to hatred or contempt,’ the complainants objected to Steyn’s (and Maclean’s) portrayal of Islam, which they characterized as provocative, hateful, and Islamophobic. The cases were eventually rejected but, again, not without a great deal of trouble and expense for Steyn and Maclean’s. The situation in Canada has an added peculiarity: costs incurred by the plaintiff who files under section 13 are borne by the state, whereas the defendant’s costs are that party’s alone.

And where domestic pressure fails, compensatory duress may be sought via international organizations such as the Organization of the Islamic Conference (OIC) and UN Human Rights Council (HRC). Both have vigorously campaigned to prohibit ‘defamation of religion,’ seeking to make this accusation more plausible by mining the language of anti-‘racism’ and anti-‘xenophobia.’ Such was the import of HRC Resolution 7/19 (March 2008), which, among other things, endorsed the OIC’s condemnation ‘of Islamophobia and systematic discrimination against the adherents of Islam’; emphasized the need to take effective measures to combat ‘defamation of religions’; urged all societies ‘to show sensitivity’ to issues of faith; noted that ‘defamation of religions is among

the causes of social disharmony and instability, at the national and international level, and leads to the violation of human rights'; and urged states 'to take actions to prohibit the dissemination ... of racist and xenophobic ideas and material aimed at any religion or its followers that constitute incitement to racial and religious hatred, hostility or violence.' The attempt to prohibit or criminalize 'ideas' is clearly a major problem for states committed to free expression. And 'hostility' and 'hatred' – terms used above – are ambiguous concepts open to sundry interpretations. Somewhat anomalously, Resolution 7/19 urges states to 'respect all religions and beliefs' and resist discrimination 'against persons on the grounds of their religion or belief' – a resolution, if enacted consistently, that would have major consequences for the imposition of Sharia. As of today, Resolution 7/19 has had a mixed reception within the UN. On June 16, 2008 Doru Romulus Costea, then president of the HRC, stated flatly that henceforth no criticism of Sharia would be tolerated in that forum. But proponents of the Defamation of Religion resolution failed to get the offense recorded in the final draft of the Durban Review Conference in Geneva (known colloquially as Durban II). Equally, the European Union's Council Framework Decision 2008/913/JHA on Combating Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law limits offenses to 'acts' or 'conduct' that is 'likely to incite violence or hatred' against groups 'defined by reference to race, colour, religion, descent or national or ethnic origin' (Art. 1:c). While member states are bound to 'prosecute' such actions or inducements, 'freedom of expression, in particular freedom of the press,' is also vouchsafed (Art. 7:2).<sup>14</sup>

The previous remarks indicate that the use of lawfare, in the context that concerns us here, has not gone unchallenged or unqualified. In fact, response to it has been robust, especially in the United States with its free speech traditions encoded in the Constitution. Instruments at the state (as distinct from the federal) level that have been especially protective are the so-called 'Anti-SLAPP' (Anti-Strategic Litigation Against Public Participation) statutes. They were invoked by Matthew Levitt and his publisher, Yale Press, when both were sued by KinderUSA for Levitt's contention, in his book *Hamas* (2008), that the ostensibly philanthropic organization devoted to children's health and education was a front organization whose finances supported terrorist activities. Levitt and Yale Press (not to be confused with Yale University Press) launched a counter-suit using California's Anti-SLAPP statute and KinderUSA dropped its action.

Similarly, in a defensive maneuver catalyzed by the Rachel Ehrenfeld case mentioned above, the New York state legislature passed, and the Federal Government initiated, respectively, the Libel Terrorism Protection Act and the Free Speech Protection Act. The latter Act, sponsored by Peter T. King in the House of Representatives and Joe Lieberman and Arlen Specter in the Senate, would allow 'US persons to bring a federal cause of action against any person bringing a foreign libel suit if the writing did not constitute defamation under US law.' *Inter alia*, the law also bars 'enforcement of foreign libel judgments' and enables the award of damages 'to the US person who brought the action in the amount of the foreign judgment, the costs related to the foreign lawsuit, and the harm caused due to the decreased opportunities to publish, conduct research, or generate funding.'<sup>15</sup>

Protest is also evident in Europe. Bodies such as the European Centre for Law and Justice (ECLJ), an international law firm that is accredited to the European Parliament, and whose attorneys have served as counsel in cases before the European Court of

Human Rights, offered a damning verdict on the concept of ‘defamation of religion.’ In a paper submitted to the UN Office of the High Commissioner of Human Rights, ECLJ queried the cogency of the concept of ‘defamation of religion,’ quoting the remarks of Liaquat Ali Khan, a Muslim scholar:

Traditionally, defamation applies to reputational injury to individuals. Group defamation is a problematic concept as it can stifle free speech and furnish undeserved protection to decadent customs and practices. The defamation of religion falls even beyond the concept of group defamation, since it may even prohibit the defamation of religious ideas and doctrines.<sup>16</sup>

Frank LaRue (2008), UN Special Rapporteur on Freedom of Opinion and Expression, concurred, arguing that restrictions on freedom of expression should be sharply limited in scope to oppose ‘national or religious hatred that constitutes incitement to discrimination, hostility or violence’; the onus falls on those offended to show that such ‘incitement’ has taken place. On the other hand, restriction of expression cannot be justified by reference to abstract reputational harm, including harm to belief-systems, religion included. To argue otherwise would be, in effect, to posit that religions are both legal persons and monolithic entities, allowing no diversity within them. LaRue’s contention comports with international human rights law, which, since 1945, has interpreted freedom of religion to mean the liberty to *act* – to exercise one’s religion – according to the scriptural requirements of one’s faith or the dictates of one’s conscience; it has never meant the right to be protected from the criticism of non-believers. Nor has it required people to be religious. Article 18 of the Universal Declaration of Human Rights is emphatic that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in the community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

And reviewing a range of recent incidents which have prompted the accusation ‘defamation of religion,’ ECLJ notes that none of the cases ‘involved the defamation against *persons* or *incitement to hatred or violence* against an individual or group, which have historically been the basis for limitations of free speech.’ Ironically, the very concept of defamation of religion may actually provoke violence, by adding further authority to capital punishment for religious ‘offenses’ and lending juridical credence to the summary street-justice of vigilante gangs.<sup>1</sup>

## Raymond Aron revisited: Modalities of ‘corruption’

The tragedy of western regimes is that in certain circumstances compromise is disastrous.

(Aron, 1969 [1965]: 48)

I began this article by saying that, like Aron, I would examine forms of modern political orthodoxy and inhibition. I then proceeded to examine two related post-Aronian

ideological developments: the rhetoric of Islamophobia, and Islamist lawfare. I also showed some continuities and contrasts between Marxism in Aron's day and Islamism in ours. Now, moving towards a conclusion, let me show more precisely how Aron's ideas and distinctions can, duly adapted, illuminate the political landscape I just described. The expression 'duly adapted' is necessary to signal that sociologists, unlike historians, work in the spirit of Aron not by recapitulating his ideas but by creatively updating them. In such wise we do with Aron what he did to thinkers he admired, such as Montesquieu, Tocqueville, and Weber: we set him to work and put him to use.

Aron was an acute student of what he dubbed, echoing the European republican tradition, the 'corruption' (degeneration, decay, dissolution) of regimes. A constitutional-pluralist regime, for instance, is corrupted when ideological passions hostile to the regime engulf it; when the regime's 'principle' (notably, law observance combined with the vitality of opinion) becomes empty and enervated; and when party-deadlock consistently paralyzes the regime's ability to manage matters both routine (the economy) and existential (the conduct of war and the maintenance of civic peace). To those who trumpet the virtue of compromise as the *sine qua non* of a pluralist regime, Aron agrees but offers this warning. Compromise can go too far. This happens when rulers conciliate when they should take a clear stand; or when they evade solving a concrete problem, and shun taking responsibility for it, by striking yet another parliamentary commission. Such compromise is tempting because it can appear, and even feel, virtuous: as an attitude of lofty toleration and generosity of spirit.

I submit that, today, we are witnessing another mode of corrosion evidenced by the confused manner in which Western political and cultural elites deal with the conundrum of specificity. This term denotes the problem of trying to identify a threat to the state while simultaneously avoiding or minimizing any reference to the antagonist's specific ethnic or religious status. Why is that a conundrum? Because in a regime where 'diversity' is normative, and where Islamophobia is treated as a self-evident malady (as distinct from a rhetoric of advantage), governments are loath to risk offending a non-Christian religious constituency by appearing prejudiced. This explains why, despite having experienced a series of Islamist attacks on their citizens, government officials nonetheless shy away from identifying the assailants as Muslims; moreover, Muslims fueled by a jihadist ideology that, far from being entirely idiosyncratic, has a scripturalist justification in the tradition. That statement will appear Islamophobic only to those who see it as a description of Muslims in general. It is not. Most Muslims are not violent jihadists; most Muslims, throughout the world, oppose them. Those facts suggest that specificity need not be a conundrum at all if one is willing to make the necessary distinctions.

It is true that government agencies never tire of distinguishing between moderate and violent Muslims, Islam being routinely described as essentially a 'religion of peace.' But the hyperbole evident in that phrase, typically uttered after a massacre, is indicative of the problem I am addressing: for to the extent that Islam is lionized as peaceful, its militants must be un-Islamic. Where government agencies perform that sleight of hand, to respect multicultural sensibilities, they are pushed towards obfuscation. Terminological strangulation and the drift into generalities are the result. In Britain, for instance, government ministries and security agencies avoid, as a conscious policy, invoking Islamists

and ‘jihadists’ and speak instead of ‘extremists’ and ‘criminals.’ In America, a parallel rhetoric has emerged. Janet Napolitano, President Barack Obama’s Homeland Security Secretary, now prefers to speak of ‘man-caused disasters’ rather than ‘terrorism’ or Islamist terror, an innovation designed, George Orwell (1957 [1946]) might have said, to name things without calling up mental pictures of them. Man-caused disaster, Secretary Napolitano explained to *Der Spiegel* (March 16, 2009), ‘is perhaps only a nuance, but it demonstrates that we want to move away from the politics of fear toward a policy of being prepared for all risks that can occur.’ Similarly, ‘overseas contingency operation’ is the Obama administration’s favored alternative to the more graphic rhetoric of the war on terror and terrorism.<sup>18</sup>

A related type of corruption is the growth in Western societies of *political* fear; not the terror occasioned in the immediate aftermath of September 11, or the bombing in Madrid, London, and Bali, but a steadily enlarging sense of menace, all the more menacing because it is officially unacknowledged. Fear becomes political when it arises from the actions, or potential actions, of one’s fellow citizens as citizens, rather than as burglars, brawlers, and so on: in the context that concerns us, this refers to fear of moral defamation (the charge of ‘Islamophobia’), of the resort to lawfare, and, on occasion, of the prospect of assault or murder. I draw the inference that political fear is a mode of corruption from Aron’s argument that while the constitutional pluralist ‘principle’ harbors respect for legality and a sense of compromise, the totalitarian ‘principle’ combines ‘faith and fear’ (Aron, 1969 [1965]: 47-49). To the extent, then, that constitutional pluralism begins to incubate fear, and even a pseudo-respect for faith, it begins to slide out of the principle that animates it. Just as excessive compromise can conceal itself under the rationalization of tolerance, so fear can disguise itself as multicultural sensitivity to the feeling of others.

Strained deference and clear double standards are symptoms of this reality. Of many recent examples, consider only two. *The New York Times*, secular to its core, is now careful to describe Islam’s founder as the ‘Prophet Muhammad,’ a respect it routinely fails to accord the founder of Christianity, who usually appears in its pages simply, and more casually, as Jesus – that is, without his religious title (Markind, 2010). In Scotland, Glasgow’s Gallery of Modern Art launched an exhibition in July 2009 that invited people who felt excluded from Christianity to deface the Bible.<sup>19</sup> Significantly, the same invitation was not extended to those offended by the Koran, even though living in Muslim countries is far more repressive for artists of independent turn of mind than living in the West, which, far from curbing art, encourages its most outrageous forms. Today, one can insult all religions in the West with impunity – except Islam. Free thinking artists, proud of their iconoclasm, show themselves to be the very model of self-censorship and good manners when their anti-religious taunts will invite not a snigger but arson or assassination. That is also the reason why Yale University Press was willing to publish a book on the controversy over the Danish cartoons of Muhammad – *sans* cartoons (Klausen, 2009).

Fear, then, and the conundrum of specificity are what characterize the salient Western responses to Islam and Islamism. It is cultural vertigo and timidity, more than ideologically induced sedation, which haunts our time.

## Notes

1. Representative texts are Aron (1993 [1936]: 297–298); Aron (2002a [1944], 2002b [1951] and 2002c [1951]); Aron (1978b [1949]); Aron (1985 [1955]: esp. Chaps II, III, and IX); Aron (1969 [1965] : 242–50).
2. Aron was probably alluding to Jules Monnerot's *Sociologie du communisme*, which pivots on a comparison of Islam and communism. First published in 1949, it appeared in English translation in 1953 under the more accurate title *The Sociology and Psychology of Communism*. I discuss it in Chapter 5 of Baehr (2010).
3. See Commission on British Muslims (1997).
4. IslamophobiaWatch: [www.islamophobia-watch.com/islamophobia-a-definition/](http://www.islamophobia-watch.com/islamophobia-a-definition/)
5. See also Furedi (2007) and Malik (2005). For Malik (2008), Islamophobia is a concept that 'confuses hatred of, and discrimination against, Muslims on the one hand with criticism of Islam on the other. The charge of "Islamophobia" is all too often used not to highlight racism [*sic*] but to silence critics of Islam.'
6. See especially Cook (2005); Kepel (2003); and Lia (2008). More generally, Jihad Watch: [www.jihadwatch.org/](http://www.jihadwatch.org/)
7. For many examples, see Spencer (2008). On the apologetic treatment of Islamic history in American school textbooks, see American Textbook Council (2008).
8. Relying on Sharia to 'limit or dilute human rights means that the rights that are established under international law are being qualified by standards that are not recognized in international law as legitimate bases for curtailing rights' (Mayer, 1995: 66; cf. 64). Consider, for instance, Article 22a of the Cairo Declaration: 'Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of Sharia'; and the capstone Article 25: 'The Islamic Sharia is the only source of reference for the explanation or clarification to any of the articles of this Declaration' ([www.religlaw.org/interdocs/docs/cairohrislam1990.htm](http://www.religlaw.org/interdocs/docs/cairohrislam1990.htm)).

On the frequently incoherent combination of Sharia and non-Muslim 'international' rights instruments more generally, see Mayer (1995: 23ff., 48–53, 101–102, 175ff.). Sometimes this forced hybridity is a result of ill-fitting cultural legacies. At other times it is a product of deliberate manipulation.

9. Wearing of the *hijab* is a more complicated case, even in a Muslim country. Considering the Turkish example, Timur Kuran (1995:8) observes that both

... fundamentalists and their opponents recognize that veiling on the part of some women would generate pressures to conform on those wishing to remain unveiled. Everyone senses [in this controversy] that some veiled women would accuse their unveiled peers or breaking an ostensible religious law, prompting the latter to falsify their preferences in an effort to gain acceptance and respect.

(1995: 8)

10. American and other Western Muslims may, however, be victims of honor killings, a social form of violence that is connected to tribal-ethnic loyalties particularly among Muslims and, to a lesser extent, Sikhs and Hindus. On the key differences between domestic violence (as it is typically conceived) and honor killings, together with data and profiles, see Chester (2009).
11. 'Lawfare' was coined in the mid-1970s but then temporarily fell into abeyance. It was revived, and given its most systematic articulation, by Colonel (now Major General) Charles J. Dunlap, Jr, who, until his retirement in February 2010, was the Deputy Judge Advocate of the US Air Force. 'Lawfare,' in his usage, has nothing to do with Islam or any religion; it refers instead to 'the strategy of using – or misusing – law as a substitute for traditional military

means to achieve an operational objective.' For Dunlap, 'lawfare' has no negative connotation in itself; it is best considered 'much the same as a weapon...that can be used for good or bad purposes.' See Dunlap (2008: 146); but especially Dunlap (2001), his seminal paper, delivered to Harvard University's Carr Center for Human Rights Policy in late November of that year.

12. 'Testimony of Rep. Peter T. King, Subcommittee on Commercial and Administrative Law Hearing on Libel Tourism,' February 12, 2009. Transcript available at [www.legal-project.org/documents/220.pdf](http://www.legal-project.org/documents/220.pdf).
13. Goldstein (2008: 7–8), which mentions other libel actions, for instance, against Harry's Place (a British blog) and Policy Exchange (a British conservative think-tank).
14. [eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:053:0050:0051:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:053:0050:0051:EN:PDF).
15. 'Testimony of Rep. Peter T. King, Subcommittee on Commercial and Administrative Law Hearing on Libel Tourism,' February 12, 2009, p. 3 (see note 12). Andrew C. McCarthy (2009) adds that such proposed laws do not force other nations to adopt the standard of US First Amendment protections.

They merely say that if you want to enforce a libel judgment against someone in the United States, you must extend that person the equivalent of the free-speech protection he or she would be entitled to under American law. If you don't, you still have your libel judgment and you can enforce it wherever on earth you can find a country that will respect it — but not here. Moreover, the proposal for an affirmative cause of action — i.e., the creation of a new kind of civil suit for use against abusive litigants like Sheikh bin Mahfouz — would not coerce any country to adopt or enforce our libel law. It would simply tell the libel tourist: If you scheme to deprive an American of a fundamental constitutional right, you can no longer do it with impunity. We will arm Americans with reciprocal power to sue you for damages in a court far away from your home — albeit in an American federal court that will surely give you a fairer shake than American journalists have gotten in the British court that has become known as 'the Club Med for libel tourists'.

To be sure, the issue of libel tourism is bigger than Muslim abuse of it. Ukrainian and Russian oligarchs, as well as Hollywood actors, have repaired to British courts to seek damages from those who have caused them displeasure. In a rare display of unity, both the American Civil Liberties Union and the conservative American Center for Democracy are backing attempts to block the effects of British libel tourism on American citizens (see [www.nytimes.com/2009/05/25/business/media/25libel.html?\\_r=1](http://www.nytimes.com/2009/05/25/business/media/25libel.html?_r=1)).

16. European Centre for Law and Justice, 'Combating Defamation of Religions' (not paginated) ([www.meforum.org/pics/ECLJ\\_submission\\_to\\_OHCHR\\_on\\_Combating\\_Defamation\\_of\\_Religions.pdf](http://www.meforum.org/pics/ECLJ_submission_to_OHCHR_on_Combating_Defamation_of_Religions.pdf)).
17. A convenient index of recent cases of Muslim-inspired censorship and lawfare is available at: [www.islamist-watch.org/docs/cat/14](http://www.islamist-watch.org/docs/cat/14), and [www.islamist-watch.org/docs/cat/4](http://www.islamist-watch.org/docs/cat/4).
18. [voices.washingtonpost.com/44/2009/03/23/the\\_end\\_of\\_the\\_global\\_war\\_on\\_t.html?hpid=news-col-blog](http://voices.washingtonpost.com/44/2009/03/23/the_end_of_the_global_war_on_t.html?hpid=news-col-blog).
19. [www.timesonline.co.uk/tol/comment/faith/article6723980.ece](http://www.timesonline.co.uk/tol/comment/faith/article6723980.ece).

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